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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 AMERICAN GNC CORP.,

11 Plaintiff,

12 v.

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14 GOPRO, INC.,  
15 ROBERT BOSCH GMBH, AND  
16 BOSCH SENSORTEC GMBH,

17 Defendants.

Case No. 18-cv-00968-BAS-BLM

**ORDER GRANTING IN PART  
AND DENYING IN PART  
MOTION FOR LEAVE TO  
SERVE SUMMONS AND  
COMPLAINT BY  
ALTERNATIVE SERVICE**

**[ECF No. 6]**

18 Pending before the Court is motion filed by Plaintiff American GNC Corp. for  
19 leave to serve the Summons and Complaint on Defendants Robert Bosch GmbH and  
20 Bosch Sensortec GmbH pursuant to Rule 4(f)(1) as “alternative service.” (ECF No.  
21 6.) Both of these Defendants are German companies with their principal places of  
22 business in Germany. (*Id.*) Plaintiff provides the German addresses of both  
23 Defendants and contends that each can be served at its respective address. (*Id.*) For  
24 the reasons herein, the Court grants in part and denies in part Plaintiff’s motion.

25 **DISCUSSION**

26 Rule 4(h)(2) provides that a corporation may be served at a place not within a  
27 judicial district of the United States in any manner prescribed by Rule 4(f), except  
28 personal delivery under Rule 4(f)(2)(C)(i). FED. R. CIV. P. 4(h)(2). Rule 4(f)(1) in

1 turn provides that “an individual—other than a minor, an incompetent person, or a  
2 person whose waiver has been filed—may be served at a place not within any judicial  
3 district of the United States by any internationally agreed means of service that is  
4 reasonably calculated to give notice, such as those authorized by the Hague  
5 Convention on the Service Abroad of Judicial and Extrajudicial Documents.” FED.  
6 R. Civ. P. 4(f)(1). Absent from Rule 4(f)(1) is any requirement that such service must  
7 be authorized by court order. In contrast, Rule 4(f) provides other means of service,  
8 which expressly require a court order. *See* Fed. R. Civ. P. 4(f)(3); *Rio Props. v. Rio*  
9 *Int’l Interlink*, 284 F.3d 1007, 1014 (9th Cir. 2002) (noting that “[a]s obvious from  
10 its plain language, service under Rule 4(f)(3) must be (1) directed by the court . . .”).

11 Here, it is unclear why Plaintiff is requesting leave to serve the Defendants  
12 located in Germany under the Hague Convention or referring to such service as  
13 “alternative service.” The United States and Germany are parties to the Hague  
14 Convention and thus Plaintiff may serve Defendants pursuant to the Hague  
15 Convention with no court order. The Federal Rules of Civil Procedure treat such  
16 service as a primary means of serving a defendant located in a country which, like  
17 Germany, is a signatory to the Hague Convention. *See Volkswagenwerk*  
18 *Aktiengesellschaft v. Schlunk*, 468 U.S. 694, 706 (1988) (holding that the Hague  
19 Convention is “the exclusive means of valid service” for entities in countries that are  
20 signatories to the Hague Convention); *Delta Constructors, Inc. v. Roediger Vacuum,*  
21 *GmbH*, 259 F.R.D. 245, 247 (S.D. Miss. 2009) (“As Germany is a signatory to the  
22 Hague Convention, any service on [the German defendant] in Germany must comply  
23 with the Hague Convention.”). Moreover, the primary means by which service is  
24 accomplished under the Convention is through a receiving country’s “Central  
25 Authority,” which the Convention requires each signatory nation to establish to act  
26 as an agent to receive a request for service, arrange for service of documents, and  
27 return proofs of service. *See Brockmeyer v. May*, 383 F.3d 798, 801 (9th Cir. 2004);  
28 *Delta Constructors, Inc.*, 259 F.R.D. at 247. Thus, Plaintiff may serve the Defendants

1 under Rule 4(f)(1) by proceeding through Germany's Central Authority.

2 A closer review of Plaintiff's request, however, suggests that Plaintiff may be  
 3 requesting service under the Hague Convention to which Germany has not agreed.  
 4 Although Germany is a signatory to the Hague Convention, it has filed an objection  
 5 under Article 10 of the Hague Convention, thereby prohibiting service by mail or  
 6 through judicial agents on a German party. *See Updateme Inc. v. Axel Springer SE*,  
 7 No. 17-cv-05054-SI, 2018 WL 306682, at \*2 (N.D. Cal. Jan. 5, 2018) (noting  
 8 Germany's objection and stating that "to serve a German defendant under the Hague  
 9 Convention, service should proceed through Germany's Central Authority"); *Agha v.*  
 10 *Jacobs*, No. C 07-1800 RS, 2008 WL 2051061, at \*1 (N.D. Cal. May 13, 2008); *see*  
 11 *also In re S. African Apartheid Litig.*, 643 F. Supp. 2d 423, 437 (S.D.N.Y. 2009).  
 12 Here, Plaintiff's disclosure of the Defendants' German addresses, statement that  
 13 "[o]n information and belief" each Defendants can be served at its respective address,  
 14 and designation of the request as one for "alternative service," suggests to the Court  
 15 that Plaintiff may be requesting to serve these Defendants directly by mail or some  
 16 other means to which Germany has not consented. The Court denies Plaintiff's  
 17 request insofar as Plaintiff sought to undertake such method of service. Plaintiff may  
 18 not circumvent the limitations of service in Germany under the Convention.

### 19 CONCLUSION & ORDER

20 For the foregoing reasons, the Court **DENIES** Plaintiff's request to the extent  
 21 Plaintiff seeks to serve Defendants directly at their German addresses or some other  
 22 method to which Germany has not consented under Hague Convention. The Court  
 23 **GRANTS** Plaintiff's request only as to effectuating service under the Hague  
 24 Convention by proceeding through Germany's Central Authority. The Court advises  
 25 Plaintiff that service in a foreign country is not subject to the general 120-day limit  
 26 for effectuating service. *See* Fed. R. Civ. P. 4(m).

27 **IT IS SO ORDERED.**

28 **DATED: June 4, 2018**

  
 Hon. Cynthia Bashant  
 United States District Judge